

The complaint

Mr J has complained that Phoenix Life Limited ('Phoenix') will not backdate his pension benefits to October 2020. Mr J has stated that the Covid-19 pandemic and the lack of available financial advice at this time meant he could not claim his pension in 2020 when he reached age 60, and that Phoenix's refusal to backdate the pension to this date has caused financial loss.

Mr J has also complained about the service levels provided by Phoenix when trying to deal with this issue.

What happened

In April 2020 Phoenix sent Mr J a wake-up letter to remind him he was approaching the normal retirement date for his pension and that he would soon need to make a decision on what to do with funds.

This letter confirmed the policy contained a guaranteed annuity rate and a guaranteed minimum pension and stated:

"There are a number of retirement benefit options available to you from us or other pension providers. We strongly recommend you consider each one and we hope the information in the enclosed Money Advice Service (MAS) brochure, Your pension - it's time to choose, will enable you to consider them."

Contact information for The Pensions Advisory Service was also provided.

A further letter was issued on 18 August 2020. This noted Mr J was close to the October normal retirement date, "*strongly*" recommended Mr J seek advice, and provided contact information for the Pension Wise service.

Mr J spoke to Phoenix on 3 September 2020, during this call Mr J explained that he could not see a Pension Wise adviser face-to-face for a further six months. Phoenix added a note to Mr J's account to that effect and stated that the retirement quote issued was valid for six months.

Phoenix forwarded pension information to Mr J on 12 August 2021, 15 March 2023, and 11 September 2023. These letters provided updated fund values and confirmed that following Mr J's 60th birthday the funds were no longer held in the with-profits investment fund but were now held on deposit, with interest being added each year.

Following a request from Mr J's new adviser Phoenix forwarded policy information on 30 May 2023.

An updated retirement options pack was sent to Mr J on 27 July 2023.

On 6 September 2023 Mr J submitted a complaint to Phoenix. This stated that he wanted his pension backdating to 2020 as he had been unable to commence income at that time due to the Covid pandemic and the inability to get face-to-face financial advice.

Phoenix issued a complaint response on 5 October 2023. Regarding the backdating of the pension to 2020, Phoenix referenced an earlier communication they had issued on 28 September 2023 which had confirmed that the pension could not be backdated to 2020.

Phoenix did however apologise for not acknowledging Mr J's complaint sooner and offered £100 by way of compensation.

On 25 October 2023 Phoenix issued their second complaint response. This did not uphold the complaint and stated that Phoenix did not believe they had caused any delays to Mr J taking his pension benefits.

Unhappy with this response Mr J forwarded his complaint to this service in November 2023.

Mr J also took his pension benefits with Phoenix in November 2023.

Our investigator looked into things, concluded that Phoenix had not acted unfairly, and explained that their decision to not backdate the pension was considered reasonable.

Mr J did not agree re-stating that Phoenix had not been clear in their communications with him, that he was under the impression that getting financial advice on his pension was mandatory, and Phoenix had not informed him when the initial 6-month delay (from September 2020 onwards) had expired.

As our investigator was not minded to change their opinion the complaint has been forwarded to me for a final decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I would note that the issue around Phoenix's service levels when dealing with Mr J's complaint and the commencement of his pension income has not been forwarded to me, with Mr J confirming that this issue was only included in his evidence to this service for completeness. However, I would like to clarify that I agree with the outcome communicated by our investigator stating that the £100 offered by Phoenix to compensate Mr J for delays in acknowledging his complaint is considered reasonable.

I have focussed the remainder of this decision on the outstanding issue regarding Phoenix's refusal to backdate Mr J's pension to 2020.

Phoenix sent Mr J documentation in April and August 2020 confirming that his retirement date was approaching. Both of these letters are on file, and both are correctly addressed. These provided Mr J with adequate time to decide what he wanted to do with the pension before he reached age 60 in October of that year.

After contacting Phoenix in September 2020 to explain that issues caused by the Covid pandemic meant he could not get the face-to face advice he wanted for a further six months, Mr J has stated he had assumed Phoenix would automatically realise that the ongoing delay following this six-month period was a result of the ongoing pandemic, and either contact him or allow the pension to be backdated on a rolling basis.

However, I cannot see anywhere where Phoenix actually offered or promised either of these options, and do not believe it was reasonable of Mr J to make such an assumption. The warmup document issued in August 2020 explained that if Mr J did not take any action then

Phoenix would assume retirement benefits were not going to be taken at that time.

Mr J has also stated that he believed receiving advice on the pension before taking benefits was mandatory and has specifically referred to one part of a document issued to him which stated that if the plan contained guaranteed benefits and was worth more than £30,000 advice was a *“legal requirement”*.

However, the full paragraph actually states that *“If your plan contains guaranteed benefits and the value of those benefits is worth more than £30,000, it is a legal requirement for you to take regulated financial advice for a number of the options available to you.”*

As explained by our investigator, the options which made advice a legal requirement were those which involved transferring the pension away from Phoenix, with the retirement quotes provided by Phoenix confirming that advice was only *“strongly recommended”* where benefits were to be taken internally.

Taking pension benefits is a lifelong and often irreversible decision, and as such I do not consider it unreasonable for Phoenix to make such strong recommendations about policyholders seeking advice before making such decisions.

Finally, I would note that whilst advice was strongly recommended, at no point did Phoenix require any advice to be face-to face. The decision to only seek and accept advice on a face-to-face basis was entirely Mr J's. I fully appreciate that Mr J wanted to ensure he fully understood what was being discussed and did not feel this was achievable with remote advice however I do not consider it reasonable to hold Phoenix accountable for delays caused by Mr J's decision in this regard.

I fully appreciate that Mr J has missed out on pension income which he could have been receiving from October 2020 until November 2023 (when benefits were eventually taken) however do not believe this can reasonably be attributed to any acts or omissions from Phoenix.

I have concluded that Phoenix provided adequate notice to Mr J in the lead up to his 60th birthday in October 2020 and that Phoenix could not reasonably be expected to have provided further ad-hoc warnings or updates to Mr J after his initial retirement quote expired after six months. Phoenix also continued to provide ongoing updates and statements to Mr J in the years after 2020 informing of where his pension was invested and what benefits could be payable.

As such I have reached the same overall outcome as our investigator and am not upholding this complaint.

My final decision

As per the rationale above I am not upholding this complaint and require no further action from Phoenix Life Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 17 June 2024.

John Rogowski
Ombudsman